

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

**MARK BROWN, C.S. and LUGAN
JENKINS, BRIAN and LORRIE RENEE
MILLER, KATHY SAUNDERS,
SANDRA SPEARS, and REGINA STOVER,**

**Plaintiffs, on behalf of themselves and
all others similarly situated,**

v.

**Civil Action No. 3:08-cv-844
Judge Robert C. Chambers**

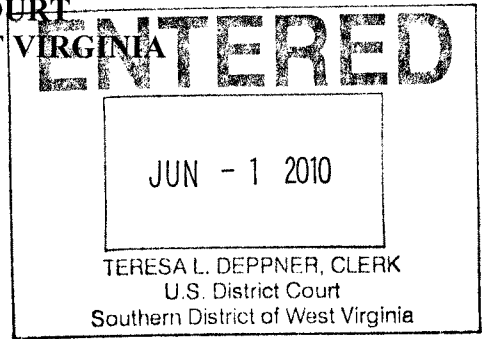
**APPALACHIAN POWER COMPANY
d/b/a AEP APPALACHIAN POWER,
AMERICAN ELECTRIC POWER COMPANY,
INC., AMERICAN ELECTRIC POWER
SERVICE COMPANY, ENERFAB, INC., AND
PRITCHARD ELECTRIC COMPANY,**

Defendants.

**ORDER REMANDING ACTION TO
CIRCUIT COURT OF PUTNAM COUNTY, WEST VIRGINIA**

On the 1st day of June, 2010, the Parties jointly moved this Court for an Order remanding this matter to the Circuit Court of Putnam County, West Virginia on the basis that this Court lacks subject matter jurisdiction. The Court, after having considered the motion of the Parties does hereby GRANT said motion and FINDS as follows:

1. This Court lacks subject matter jurisdiction because:
 - (a) the proposed class action includes class members residing in certain geographical areas of Poca and Raymond City, West Virginia, on November 1, 2007 and the case was originally filed in West Virginia, thus satisfying 28 U.S.C. § 1332(d)(4)(A)(i)(I);



(b) 28 U.S.C. § 1332(d)(4)(A)(i)(I) requires that two-thirds of the members of the proposed class be citizens of West Virginia. Although it is uncertain if all persons of the proposed class still live in West Virginia, it is logical to assume that two-thirds still reside in West Virginia;

(c) Plaintiffs seek significant relief from Pritchard Electric Company, a West Virginia citizen whose alleged conduct on November 1, 2007 forms a significant basis for the claims asserted by the proposed plaintiff class, thus satisfying 28 U.S.C. § 332(d)(4)(A)(i)(II) is satisfied;

(d) the alleged principal injuries resulting from the alleged conduct of the defendants all occurred in West Virginia satisfying 28 U.S.C. § 332(d)(4)(A)(i)(III);

(e) the Court is unaware of other class action being filed in the 3-year period preceding the filing of this class action asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons satisfying the requirements of 28 U.S.C. § 1332(d)(4)(A)(ii);

(f) two-thirds or more of the members of the proposed plaintiff class and Pritchard, a primary defendant, are citizens of the State in which the action was originally filed – West Virginia. 28 U.S.C. § 1332(d)(4)(B).

2. No other basis for subject matter jurisdiction exists and remand is appropriate pursuant to 28 U.S.C. § 1447(c).

Therefore, the Court does hereby ORDER this matter be remanded to the Circuit Court of Putnam County, West Virginia.

The Court does hereby further ORDER that no party shall be assessed costs and expenses, including attorney fees, incurred as a result of the removal. Any claim for costs and

expenses, including attorneys fees related to the claims and defenses of the Parties shall not be affected by this Order.


The Court does hereby further ORDER the Clerk of this Court to mail a certified copy of this order to the Circuit Clerk of Putnam County, West Virginia at Putnam County Judicial Building, 3389 Winfield Road, Winfield, WV 25213.

3. The Clerk is directed to send a copy of this Order to all counsel of record.

IT IS SO ORDERED.

Entered

6/1/10


Hon. Robert C. Chambers, Judge
U.S. District Court for the
Southern District of West Virginia

Prepared by:

/s/ Stephen E. Hastings 6/1/2010
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